



No. S146537  
Vancouver Registry

THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

DIFFERENCE CAPITAL FINANCIAL INC., formerly known as  
DIFFERENCE CAPITAL FUNDING INC.

PLAINTIFF

AND

LIGNOL ENERGY CORPORATION

DEFENDANT

**NOTICE OF APPLICATION**

**Name of applicant:** The Bowra Group Inc. (the "Bowra Group"), in its capacity as Court-appointed Receiver of Lignol Energy Corporation (the "Receiver")

To: Lignol Energy Corporation and Difference Capital Financial Inc.

TAKE NOTICE that an application will be made by the applicant to the Honourable Mr. Justice McEwan at the courthouse at 800 Smithe Street, Vancouver, British Columbia on March 6, 2015 at 9:30 a.m. for the order set out in Part 1 below.

**Part 1: ORDER SOUGHT**

1. An order substantially in the form attached as **Schedule "A"** hereto:
  - a) declaring that the time for service of this application is abridged, that this application is properly returnable on March 6, 2015 and that further service of this application is dispensed with;
  - b) authorizing the Receiver to distribute funds realized by Lignol Energy Corporation ("LEC") from the receivership proceedings of its wholly owned subsidiary, Lignol Innovations Ltd. ("LIL"), to LEC's senior secured creditor, Difference Capital Financial Inc. ("**Difference Capital**");
  - c) authorizing the Receiver to make such further partial interim distributions of funds to Difference Capital from the realization of LEC's remaining assets, if any, in such amounts and circumstances as the Receiver deems to be appropriate.

2. Such further and other orders, declarations and directions as counsel may request and this Honourable Court may deem just and convenient.

## **Part 2: FACTUAL BASIS**

### ***Background***

3. On August 29, 2014, the Bowra Group, upon the application of Difference Capital, obtained an order from this Court (the "**Receivership Order**") appointing the Bowra Group as the Receiver of all of the assets, undertakings and properties of LEC, including LEC's 100 percent ownership interest in the shares of LIL and Territory Biofuels Ltd. ("**TBF**"). After its appointment the Receiver continued negotiations with a potential purchaser of the assets of LEC.
4. In order to obtain the authority to deal directly with LIL's assets, including the ability to seek an order vesting LIL's assets in a prospective purchaser free and clear of some or all of LIL's existing liabilities, the Receiver applied for and on October 16, 2014 obtained from this Court an order appointing the Bowra Group, in its capacity as LEC's Receiver, as receiver of LIL's assets.
5. In addition, on November 6, 2014 the Bowra Group, in its capacity as LEC's Receiver, appointed McGrathNicol as receiver and manager of TBF.
6. The Receiver conducted a sales process for the assets of LEC in the within proceedings concurrently with sales processes for the assets of LIL and TBF in their respective receivership proceedings (collectively, the "**Sales Process**").
7. All of the offers received as part of the Sales Process contemplated the purchase of LIL's assets only.
8. On January 16, 2015 this Honourable Court approved a purchase and sale agreement resulting in the sale of LIL's assets for a purchase price of \$5.5 million (the "**Sales Proceeds**").

### ***LEC's Realization on LIL's Assets and the Proposed Distribution to Difference Capital***

9. The largest claim against LIL was LEC's claim for approximately \$14.9 million in respect of monies advanced by LEC to LIL to fund LIL's operations.
10. The Bowra Group, as receiver of LIL, made a partial interim distribution of the Sales Proceeds to LIL's creditors pursuant to a Claims Process and Interim Distribution Order granted by this Honourable Court in LIL's receivership proceedings on January 16, 2015 (the "**Claims Process Order**"). The largest single distribution was a payment to LEC in the amount of \$4.8 million.
11. Difference Capital is the senior secured creditor of LEC and is currently owed approximately \$13.1 million.

12. The Receiver is of the view that it is appropriate to distribute the \$4.8 million that has been paid to LEC pursuant to the LIL Claims Process Order to Difference Capital.

**Part 3: LEGAL BASIS**

13. The Distribution Order provides for the reasonable and appropriate interim distribution of funds received by LEC from the LIL Sales Proceeds. The Receiver continues to attempt to realize on LEC's remaining assets.
14. Given the amount of the likely shortfall of Difference Capital's secured claim in LEC, no stakeholder of LEC will be prejudiced by the granting of the Distribution Order.
15. The Receiver is authorized to bring this application pursuant, *inter alia*, to the Receivership Order, the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, and Rule 8-1 of the *Supreme Court Civil Rules*, BC Reg. 168/2009.

**Part 4: MATERIAL TO BE RELIED ON**

9. The First Report of the Receiver, dated February 23, 2015.
10. Such further and other materials counsel may advise and this Honourable Court may allow.

The applicant estimates that the application will take 15 minutes.

- This matter is within the jurisdiction of a master.
- This matter is not within the jurisdiction of a master.

**TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION:** If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed application response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

- (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: February 26, 2015



Signature of Peter L. Rubin/Peter Bychawski  
 applicant  lawyers for applicant, the  
Bowra Group Inc., in its capacity as the  
receiver and manager of Lignol Energy  
Corporation

To be completed by the court only:

Order made

in the terms requested in paragraphs ..... of Part 1 of this notice  
of application

with the following variations and additional terms:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date:

\_\_\_\_\_

Signature of  Judge  Master

## APPENDIX

### THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

**SCHEDULE "A"**

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BETWEEN

DIFFERENCE CAPITAL FINANCIAL INC., formerly known as  
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PLAINTIFF

AND

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DEFENDANT

**ORDER MADE AFTER APPLICATION**

**(INTERIM DISTRIBUTION ORDER)**

BEFORE ) THE HONOURABLE JUSTICE MCEWAN )  
) )  
) ) March 6, 2015

**ON THE APPLICATION** of The Bowra Group Inc., in its capacity as the Court-appointed receiver (the "**Receiver**") of the assets, undertakings and properties of Lignol Energy Corporation coming on for hearing at Vancouver, British Columbia on the 6<sup>th</sup> day of March, 2015; **AND ON HEARING** Peter Bychawski, counsel for the Receiver, and those other counsel listed on **Schedule "A"** hereto; **AND UPON READING** the material filed;

THIS COURT ORDERS that:

1. The time for service of the Notice of Application and the supporting materials is hereby abridged such that the Receiver's application is properly returnable on March 6, 2015 and further service thereof is hereby dispensed with.
2. The Receiver is hereby authorized to distribute funds in the amount of \$4.8 million realized by Lignol Energy Corporation ("**LEC**") from the receivership proceedings of Lignol Innovations Ltd. to Difference Capital Financial Inc. ("**Difference Capital**").

3. The Receiver is hereby authorized to make such further partial interim distributions of funds to Difference Capital from the realization of LEC's remaining assets, if any, in such amounts and circumstances as the Receiver deems to be appropriate without further order of this Court.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

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Signature of Peter L. Rubin/Peter Bychawski  
 party  lawyers for the applicant, the Bowra Group Inc., in its capacity as the receiver and manager of Lignol Energy Corporation

BY THE COURT.

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Registrar